



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

DEC 16 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Richard F. Bergner
Attorney at Law
Registered Agent for National Oil Recovery Corporation
5151 San Felipe, Suite 1950
Houston, Texas 77056
713-783-4832 (telephone)

**Re: Falcon Refinery Superfund Site;
2725 Bishop Road, Ingleside, San Patricio County, Texas**

Dear Mr. Bergner:

The letter from the U.S. Environmental Protection Agency (EPA) dated October 26, 2011, informed you that the EPA had determined that the National Oil Recovery Corporation (NORCO) is in default of the orders requiring completion of the Remedial Investigation and Feasibility Study (RI/FS) for the Falcon Refinery Superfund site (Falcon Refinery or Falcon site). The EPA's October 26, 2011 letter, enclosed here, further advised NORCO that, unless all deficiencies are remedied within thirty days, the EPA will take over performance of the RI/FS.

The EPA has evaluated your letter dated November 30, 2011, containing information about the status of NORCO's prospect of selling the Falcon Refinery to yet another prospective buyer. The EPA has determined that your November 30, 2011, demonstrates that NORCO has not remedied any of the deficiencies specified by the EPA involving the Falcon site. NORCO is therefore in default of the orders concerning the RI/FS.

In accordance with the EPA's Work Takeover letter dated March 28, 2011, also enclosed here, the EPA has determined it necessary to take over the performance of the remaining work required under the *Administrative Order on Consent for the Remedial Investigation and Feasibility Study, in the matter of the Falcon Refinery Site, San Patricio County, Texas, National Oil Recovery Corporation (NORCO) Respondent*, CERCLA Docket No. 06-05-04 (RI/FS Order) in accordance with the work takeover provisions of Section XXIV, Paragraph 88 and Section XXVII, Paragraph 102 of the RI/FS Order.

Because NORCO is in default, the EPA will be proceeding immediately to complete the RI/FS using the \$500,000 in funds in the EPA's Special Account from the payment of the Letter of Credit for the RI/FS (Letter of Credit No. 6167567). In addition, the EPA will be seeking the replenishment of the Special Account in the amount of \$299,059.55, and stipulated penalties in the amount of \$500,000. The EPA will also resume its evaluation of perfecting a lien on the Falcon site.

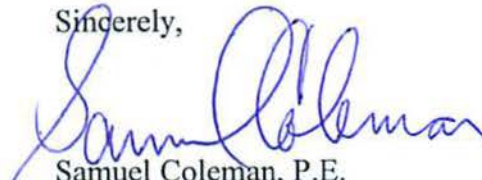
Finally, as provided in the EPA's March 28, 2010, Work Takeover letter, the EPA must have access to all of the data gathered by NORCO in the performance of the RI/FS Order. Within thirty days of receipt of this letter, please provide all Site information prepared, obtained or gathered by NORCO and NORCO contractors related to the performance of the Remedial Work at the Falcon Refinery Superfund Site in accordance with the RI/FS Order. Please submit the Site information to:

Rafael Abrego Casanova, Remedial Project Manager
U.S. Environmental Protection Agency (Region 6)
Superfund Division (6SF-AP)
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
Telephone Number: (214) 665-7437
Fax Number: (214) 665-6660
E-Mail: casanova.rafael@epa.gov

The Site information should include all data collected and obtained during the performance of the Remedial Work at the Falcon Refinery Site. Data shall include the information stored in any digital format for word processing, graphics design, and other computer-based applications (e.g., WordPerfect [.wpd], MS Word [.doc], Adobe PDF [.pdf]), MS Access [.mdb], MS Power Point [.ppt], graphics and imaging software [.bmp, .tif, .gif, etc], MS Excel [.xls], GIS applications [.mxd, .dbf, .shp], Visual Sample Plan [.vsp], and others). Geographic Information System (GIS) data should be provided to the EPA in a GIS compatible format to the extent feasible, with all GIS data sets in a Universal Transverse Mercator or State Plane coordinate system. Please understand that a failure to respond to this request for data within the specified timeframe could subject NORCO to penalties or a federal civil enforcement action for the data.

If you have any questions, please do not hesitate to contact Gloria Moran, Assistant Regional Counsel at 214-665-3193.

Sincerely,

A handwritten signature in blue ink, appearing to read "Samuel Coleman".

Samuel Coleman, P.E.
Director
Superfund Director (6SF)

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

OCT 26 2011

**ELECTRONIC MAIL AND
CERTIFIED MAIL: RETURN RECEIPT REQUESTED**
Certified Mail Receipt No. 7004 1160 0003 0353 6391
URGENT LEGAL MATTER - PROMPT REPLY NECESSARY

National Oil Recovery Corporation
C/O Richard F. Bergner
5151 San Felipe, Suite 1950
Houston, TX 77056-3607

**RE: Notice of Deficiencies and Remedial Investigation and Feasibility Study Takeover
Falcon Refinery Superfund Site
2725 Bishop Road
Ingleside, San Patricio County, Texas**

Dear Mr. Bergner:

This letter informs National Oil Recovery Corporation (NORCO) that the United States Environmental Protection Agency (EPA) has determined that NORCO is in default of the orders requiring completion of the RI/FS for the Falcon Refinery Superfund Site (Site). The EPA also has determined that, unless all deficiencies are remedied within thirty days, the EPA will take over performance of the RI/FS.

In a letter dated March 28, 2011, NORCO received notice that EPA determined it necessary to take over performance of the remaining work required under two Administrative Orders on Consent related to the Falcon Refinery Superfund Site. The Administrative Order on Consent for Removal Action, CERCLA Docket No. 06-04-04 (Removal Order) and the Administrative Order on Consent for Remedial Investigation and Feasibility Study, CERCLA Docket No. 06-05-04 (RI/FS Order). The letter detailed its determination of NORCO's default and the specific provisions of the orders which were applicable. At the same time, EPA notified NORCO that it intended to proceed with listing the Site on the National Priorities List (NPL) and filing of a lien for response costs.

After receipt of the letter, NORCO sought and was granted a meeting with the Director of the Superfund Division for EPA, Region 6. At that meeting, NORCO indicated that it had sufficient funds to complete the removal action as required under the Removal Order. NORCO also indicated that it had entered into an agreement to sell the facility and that the sale would generate the funds to complete the RI/FS as required under the RI/FS Order. Based on NORCO's promise to place the proceeds of the sale in escrow, the EPA agreed to allow them to complete the removal action. The EPA also offered NORCO the opportunity to enter into a funding agreement under which NORCO could complete the RI/FS. On September 26, 2011, NORCO entered into the Agreed Order for Resumption of Remedial Investigation and Feasibility Study at the Falcon Refinery Superfund Site, Ingleside, San Patricio County, Texas

(Agreed Order). On October 12, 2011, NORCO notified the EPA that the offer to purchase the property had been withdrawn. To date none of the actions required by the Agreed Order have been completed.

Paragraph H, subparagraph 12 of the Agreed Order, requires the EPA to notify NORCO, in writing, of the areas in which NORCO has failed to comply with the terms of the Agreed Order. Therefore, this letter serves as the EPA's written notice to NORCO that, as of the date of this letter, NORCO has failed to comply with the following terms of the Agreed Order:

1. Paragraph H, subparagraph 1:

NORCO failed to deposit \$2,000,000.00 in an escrow account designating the EPA Remedial Project Manager (RPM) as an authorized user with on-line banking access to ensure that these funds are used only to pay TRC Companies, Inc. and other designated contractors for work associated with the RI/FS and to fully monitor payments to such contractors.

2. Paragraph H, subparagraph 3:

NORCO failed to deposit an additional \$5,000,000.00 into the escrow account established in #1 above, designating the EPA RPM Rafael Casanova, Region 6, as an authorized user with on-line banking access. Such funds were to be held in the escrow account until EPA's signature on a Record of Decision as provided in Section XXIX, Paragraph 111 of the RI/FS Order.

3. Paragraph H, subparagraph 4:

NORCO failed to submit a current Phase II Work Plan, per the Agreed Order, for the RI/FS to the EPA. The latest Work Plan submitted by NORCO to the EPA was dated August 24, 2007.

NORCO failed to submit to the EPA, per the Agreed Order, updated ecological risk screening levels. Data in the ecological risk table that NORCO submitted to the EPA is not entirely correct.

4. Paragraph H, subparagraph 9:

NORCO failed to replenish the Special Account in the amount of \$299,059.55, the amount of unrecovered costs to date that have not been collected by EPA.

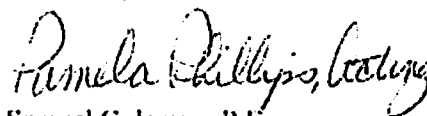
5. Paragraph H, subparagraph 10:

NORCO failed to pay stipulated penalties in the amount of \$500,000.00 for defaulting in the performance of the RI/FS Order.

Finally, as NORCO is aware, the Falcon Refinery Site was proposed for listing by the EPA on the National Priorities List (NPL) on September 5, 2002. The EPA agreed to suspend the listing of the Falcon Refinery Site in accordance with guidance for Superfund Alternative Sites so long as NORCO undertook the actions required by the RI/FS Order. As part of its decision to take over the work required by the RI/FS Order, EPA has decided to lift the suspension of the listing of the Falcon Refinery Site on the NPL, and list the Site on the Final NPL. As specified in Section XXVI, Paragraph 97 of the RI/FS Order, the Falcon Refinery Site will be listed based on the conditions of the site prior to the initiation of any response activities by NORCO. Paragraph 97 specifies that NORCO may not challenge a final listing based on changed conditions due to a partial cleanup.

If you have any questions pertaining to this letter, please contact Gloria Moran, Assistant Regional Counsel, at 214-665-3193.

Sincerely yours,



Samuel Coleman, P.E.
Director
Superfund Division



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

DATE: 02-10-2011
TIME: 10:00 AM

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Richard F. Bergner
Attorney at Law
Registered Agent for National Oil Recovery Corporation
5718 Westheimer, Suite 700
Houston, Texas 77057
713-783-4832 (telephone)
713-783-2502 (telecopy)

Re: Work Takeover - Falcon Refinery Superfund Site;
2725 Bishop Road, Ingleside, San Patricio County, Texas

Dear Mr. Bergner:

This letter informs National Oil Recovery Corporation (NORCO) that the United States Environmental Protection Agency (EPA) has determined it necessary to take over performance of the remaining work required under the Administrative Order on Consent for Removal Action in the matter of Falcon Refinery Site, San Patricio County, Texas, National Oil Recovery Corporation (NORCO) Respondent, CERCLA Docket No. 06-04-04 (Removal Order) in accordance with the work takeover provision of Section XX, Paragraph 76 of the Removal Order. In addition, this letter informs NORCO that EPA has determined it necessary to take over the performance of the remaining work required under the Administrative Order on Consent for Remedial Investigation and Feasibility Study, in the matter of Falcon Refinery Site, San Patricio County, Texas, National Oil Recovery Corporation (NORCO) Respondent, CERCLA Docket No. 06-05-04 (RI/FS Order) in accordance with the work takeover provisions of Section XXIV, Paragraph 88 and Section XXVII, Paragraph 102 of the RI/FS Order.

The EPA is invoking the work takeover provisions because NORCO has defaulted in the performance of the terms and conditions of the Removal Order and RI/FS Order. On February 10, 2010, NORCO advised EPA that the company was financially unable to continue performing in accordance with the terms of the two Administrative Orders on Consent. Since February 10, 2010, when EPA was advised of NORCO's financial inability to continue performance of the actions required by the Removal Order and the RI/FS Order, EPA has supported NORCO's attempt to sell the refinery because NORCO informed EPA that the sale proceeds would be used to finance the remaining requirements of the two orders. On February 10, 2011, NORCO informed EPA that it had reached an agreement to sell the Site to a prospective purchaser and was prepared, therefore, to resume performance of the work required under the two orders. NORCO indicated that

the closing date for the sale of the refinery would be March 15, 2011. On March 21, 2011, however, EPA was informed that the sale of the refinery did not close. The EPA has determined, therefore, that NORCO has ceased to perform the requirements of Removal Order and the RI/FS Order, and is therefore in default of the terms and conditions of the Removal Order and the RI/FS Order.

In order to finance EPA's work takeover, EPA will be presenting immediately the Letter of Credit for the Removal Order and the Letter of Credit for the RI/FS Order. As specified in Section XXVII, Paragraph 102 of the RI/FS Order, NORCO must provide EPA with the necessary access to these Letters of Credit "in order to takeover the Work and prevent any delays in cleanup."

Additionally, because NORCO has defaulted in the performance of the terms and conditions of the Removal Order and the RI/FS Order, EPA may seek stipulated penalties from NORCO for failing to comply with the Removal Order and the RI/FS Order.

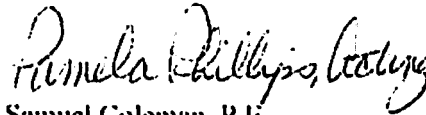
The EPA must have access to all of the data gathered by NORCO in the performance of the Removal Order and the RI/FS Order. As specified in Section X, Paragraph 43 of the Removal Order, within 10 days of receipt of this letter, please provide all site information prepared, obtained or gathered by NORCO and by NORCO contractors related to the performance of the removal work at the Falcon Refinery Site in accordance with the Removal Order. Site information should include all data collected and obtained during the performance of the removal work at the Falcon Refinery Superfund Site, including the information stored in digital format for word processing, graphics design, and other computer-based applications (e.g., WordPerfect [.wpd], MS Word [.doc], Adobe PDF [.pdf]), MS Access [.mdb], MS Power Point [.ppt], graphics and imaging software [.bmp, .tif, .gif, etc], MS Excel [.xls], GIS applications [.mxd, .dbf, .shp], Visual Sample Plan [.vsp], and others). This data should be provided to EPA in a Geographic Information System (GIS) compatible format to the extent feasible, with all GIS data sets in a Universal Transverse Mercator or State Plane coordinate system.

Also, as specified in Section XVI, Section 54 of the RI/FS Order, within 10 days of receipt of this letter, please provide all site information prepared, obtained or gathered by NORCO and by NORCO contractors related to the performance of the Remedial Work at the Falcon Refinery Superfund Site in accordance with the RI/FS Order. Site information should include all data collected and obtained during the performance of the Remedial Work at the Falcon Refinery Site. Data shall include the information stored in any digital format for word processing, graphics design, and other computer-based applications (e.g., WordPerfect [.wpd], MS Word [.doc], Adobe PDF [.pdf]), MS Access [.mdb], MS Power Point [.ppt], graphics and imaging software [.bmp, .tif, .gif; etc], MS Excel [.xls], GIS applications [.mxd, .dbf, .shp], Visual Sample Plan [.vsp], and others). This data should be provided to EPA in a Geographic Information System (GIS) compatible format to the extent feasible, with all GIS data sets in a Universal Transverse Mercator or State Plane coordinate system.

Finally, as NORCO is aware, the Falcon Refinery Site was proposed for listing by the EPA on the National Priorities List (NPL) on September 5, 2002. The EPA agreed to suspend the listing of the Falcon Refinery Site in accordance with guidance for Superfund Alternative Sites so long as NORCO undertook the actions required by the RI/FS Order. As part of its decision to take over the work required by the RI/FS Order, EPA has decided to lift the suspension of the listing of the Falcon Refinery Site on the NPL and list the Site on the Final NPL. As specified in Section XXVI, Paragraph 97 of the RI/FS Order, the Falcon Refinery Site will be listed based on the conditions of the site prior to the initiation of any response activities by NORCO. Paragraph 97 specifies that NORCO may not challenge a final listing based on changed conditions due to a partial cleanup.

If you have any questions pertaining to this letter, please contact Gloria Moran, Assistant Regional Counsel, at 214-665-3193.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Samuel Coleman".

Samuel Coleman, P.E.
Director
Superfund Division